

AMENDED IN SENATE MAY 10, 2011

AMENDED IN SENATE APRIL 13, 2011

SENATE BILL

No. 615

Introduced by Senator Calderon

February 18, 2011

~~An act to add Section 1361.5 to the Health and Safety Code, and to amend Sections 1622, 1626, and 1631.5 of, and to add Section 1632.5 to, the Insurance Code, relating to health care coverage. An act to amend Section 1359 of, and to add Section 1361.5 to, the Health and Safety Code, and to amend Section 1631.5 of, and to add Section 1749.87 to, the Insurance Code, relating to health care coverage.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 615, as amended, Calderon. Health care service plans: accident and health agents: licensure.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. A willful violation of the act is a crime. The chief officer of the department is the Director of the Department of Managed Health Care. Existing law authorizes the director to require that solicitors and solicitor firms, and principal persons engaged in the supervision of solicitation for plans of solicitor firms, meet specified standards.

This bill would change the director's authority as described above to make it mandatory. On and after January 1, 2013, the bill would also require solicitors and solicitor firms, and principal persons engaged in the supervision of solicitation for health care service plan contracts, specialized health care service plan contracts, Medicare Advantage Plans under Medicare Part C, or Medicare supplement contracts, to

complete solicitor training that includes, among other things, information relating to the act, the federal Patient Protection and Affordable Care Act, and the California Health Benefit Exchange. The bill would require the department to consult with the Insurance Commissioner with respect to developing the curriculum for the solicitor training.

Because a willful violation of the act constitutes a crime, the bill would impose a state-mandated local program.

~~Existing law authorizes a life licensee to act on behalf of a life insurer or disability insurer to transact life insurance, accident and health insurance, and life and accident and health insurance. Existing law requires life licensees and accident and health agent licensees to be licensed by the Insurance Commissioner, subject to prelicensure standards and continuing education requirements developed by the curriculum board that consists of insurance industry representatives and consumer groups. Existing law authorizes the Insurance Commissioner to enforce those provisions. Existing law makes it a misdemeanor to transact insurance without a license.~~

~~This bill would require any person who solicits, negotiates, or sells health care service plan contracts, specialized health care service plan contracts, Medicare Advantage Plans under Medicare Part C, or Medicare supplement contracts to be licensed as an accident and health agent by the Insurance Commissioner, effective July 1, 2012. The bill would authorize the Insurance Commissioner to enforce those provisions, and would require the Insurance Commissioner and the Director of the Department of Managed Health Care to share information with regard to investigations, discipline, and enforcement. Because the failure to hold a license to transact insurance under these provisions would be a crime, the bill would impose a state-mandated local program.~~

This bill would require the curriculum board to make recommendations to the commissioner to, among other things, instruct accident and health licensees about the requirements of the federal Patient Protection and Affordable Care Act and to include instruction relating to the California Health Benefit Exchange. The bill would require each course provider to submit its course content to the commissioner for approval.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1359 of the Health and Safety Code is*
2 *amended to read:*

3 1359. (a) The director ~~may~~ *shall* require that solicitors and
4 solicitor firms, and principal persons engaged in the supervision
5 of solicitation for plans of solicitor firms, meet ~~such~~ reasonable
6 and appropriate standards with respect to training, experience, and
7 other qualifications *consistent with Section 1361.5 and any*
8 *additional standards* as the director finds necessary and appropriate
9 in the public interest or for the protection of subscribers, enrollees,
10 and plans. For such purposes, the director may do the following:

11 (1) Appropriately classify such persons and individuals.

12 (2) Specify that all or any portion of such standards shall be
13 applicable to any such class.

14 (3) Require individuals in any such class to pass examinations
15 prescribed in accordance with such rules.

16 (b) The director may prescribe by rule reasonable fees and
17 charges to defray the costs of carrying out this section, including,
18 but not limited to, fees for any examination administered by the
19 director or under his or her direction.

20 ~~SECTION 1.~~

21 *SEC. 2. Section 1361.5 is added to the Health and Safety Code,*
22 *to read:*

23 ~~1361.5. Effective July 1, 2012, a person shall not solicit,~~
24 ~~negotiate, or sell health care service plan contracts, specialized~~
25 ~~health care service plan contracts, Medicare Advantage Plans under~~
26 ~~Medicare Part C, or Medicare supplement contracts, unless the~~
27 ~~person is licensed as an accident and health agent by the Insurance~~
28 ~~Commissioner. The director and the Insurance Commissioner shall~~
29 ~~share information with regard to investigations, discipline, and~~
30 ~~enforcement of violations under this section.~~

31 1361.5. (a) *On and after January 1, 2013, solicitors and*
32 *solicitor firms, and principal persons engaged in the supervision*
33 *of solicitation for health care service plan contracts, specialized*

1 *health care service plan contracts, Medicare Advantage Plans*
2 *under Medicare Part C, or Medicare supplement contracts, shall*
3 *complete training as a solicitor consistent with this section.*

4 *(b) The training for a solicitor shall include the following:*

5 *(1) Knowledge of the Knox-Keene Health Care Service Plan*
6 *Act of 1975 (commencing with Section 1340) and regulations*
7 *implemented under that act.*

8 *(2) Knowledge of the federal Patient Protection and Affordable*
9 *Care Act (Public Law 111-148) and other relevant federal laws,*
10 *federal regulations, and guidance implemented under those laws.*

11 *(3) Knowledge of all public coverage programs and the*
12 *California Health Benefit Exchange.*

13 *(4) Ethics training.*

14 *(c) In developing the curriculum for solicitor training, the*
15 *department shall consult with the Insurance Commissioner. The*
16 *training developed by the department shall be at least as extensive*
17 *as the training for an accident and health agent, as required by*
18 *the Insurance Commissioner.*

19 *(d) The department shall determine whether the ethics training*
20 *provided to those licensed as an accident and health agent by the*
21 *Insurance Commissioner is sufficient and appropriate for a*
22 *solicitor. If the department so determines, then an individual*
23 *licensed and in good standing as an accident and health agent*
24 *shall not be required to complete the ethics training described in*
25 *this section; however, all other requirements pursuant to this*
26 *section shall apply.*

27 *(e) Nothing in this section shall be deemed to affect the current*
28 *operations of the Healthy Families Program (Part 6.2*
29 *(commencing with Section 12693) of Division 2 of the Insurance*
30 *Code), the Access for Infants and Mothers Program (Part 6.3*
31 *(commencing with Section 12695) of Division 2 of the Insurance*
32 *Code), or the Medi-Cal program (Chapter 7 (commencing with*
33 *Section 14000) of Part 3 of Division 9 of the Welfare and*
34 *Institutions Code). Nothing in this section shall be deemed to affect*
35 *the operations of the California Health Benefit Exchange*
36 *established in Title 22 (commencing with Section 100500) of the*
37 *Government Code.*

38 *(f) Nothing in this section shall apply to the requirements or*
39 *qualifications for navigators pursuant to subdivision (l) of Section*
40 *100502 of the Government Code.*

~~SEC. 2. Section 1622 of the Insurance Code is amended to read:~~

~~1622. (a) A life licensee is a person authorized to act on behalf of a life insurer, a disability insurer, or a health care service plan to transact any of the following:~~

~~(1) Life insurance.~~

~~(2) Accident and health insurance.~~

~~(3) Life and accident and health insurance.~~

~~(4) Effective July 1, 2012, health care service plan contracts, specialized health care service plan contracts, Medicare Advantage Plans under Medicare Part C, or Medicare supplement contracts.~~

~~(b) Licenses to act as a life agent under this chapter shall be of the types set forth in Section 1626.~~

~~SEC. 3. Section 1626 of the Insurance Code is amended to read:~~

~~1626. (a) A life licensee is a person authorized to act as a life agent. Licenses to act as a life agent under this chapter shall be of the following types:~~

~~(1) Life-only, which license shall entitle the licensee to transact insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.~~

~~(2) Accident and health, which license shall entitle the licensee to transact insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income.~~

~~(b) An accident and health agent licensee also is authorized to transact 24-hour care coverage, as defined in Section 1749.02, pursuant to subdivision (d) of Section 1749 or subdivision (d) of Section 1749.33.~~

~~(c) Effective July 1, 2012, an accident and health agent licensee also is authorized to transact health care service plan contracts, specialized health care service plan contracts, Medicare Advantage Plans under Medicare Part C, and Medicare supplement contracts.~~

~~SEC. 4.~~

~~SEC. 3. Section 1631.5 of the Insurance Code is amended to read:~~

~~1631.5. (a) Nothing in this article shall be deemed to affect the current operations of the Healthy Families Program (Part 6.2 (commencing with Section 12693) of Division 2) or the Access~~

1 for Infants and Mothers Program (Part 6.3 (commencing with
2 Section 12695) of Division 2), or, ~~for purposes of Section 1632.5,~~
3 the Medi-Cal program (Chapter 7 (commencing with Section
4 14000) of Part 3 of Division 9 of the Welfare and Institutions
5 Code). *Nothing in this article shall be deemed to affect the*
6 *operations of the California Health Benefit Exchange established*
7 *in Title 22 (commencing with Section 100500) of the Government*
8 *Code.*

9 (b) *Nothing in this article shall apply to the requirements or*
10 *qualifications for navigators pursuant to subdivision (l) of Section*
11 *100502 of the Government Code.*

12 SEC. 5. ~~Section 1632.5 is added to the Insurance Code, to read:~~

13 ~~1632.5. (a) Effective July 1, 2012, a person shall not solicit,~~
14 ~~negotiate, or sell health care service plan contracts, specialized~~
15 ~~health care service plan contracts, Medicare Advantage Plans under~~
16 ~~Medicare Part C, or Medicare supplement contracts, unless the~~
17 ~~person is licensed as an accident and health agent by the~~
18 ~~commissioner.~~

19 ~~(b) An applicant for licensure as an accident and health agent~~
20 ~~under this section shall be subject to the same prelicensing~~
21 ~~education standards as all other accident and health agents,~~
22 ~~including, but not limited to, the standards imposed under Section~~
23 ~~1749.~~

24 ~~(c) A licensee subject to licensure renewal under this section~~
25 ~~shall be subject to the same continuing education requirements as~~
26 ~~all other accident and health agents, including, but not limited to,~~
27 ~~those specified in Sections 1749.3 and 1749.33.~~

28 ~~(d) The commissioner may adopt all necessary rules and~~
29 ~~regulations to implement this section.~~

30 ~~(e) The commissioner has the sole authority to enforce the~~
31 ~~provisions of this section and Section 1361.5 of the Health and~~
32 ~~Safety Code against any person who violates those provisions or~~
33 ~~this part, including, but not limited to, any provision related to~~
34 ~~investigations, disciplinary actions, and enforcement of violations~~
35 ~~under this part. This authority precludes the Director of the~~
36 ~~Department of Managed Health Care from enforcing these~~
37 ~~provisions.~~

38 ~~(f) Notwithstanding subdivision (e), the commissioner and the~~
39 ~~Director of the Department of Managed Health Care shall share~~
40 ~~information with regard to investigations, discipline, and~~

1 enforcement of violations under this part, as specified in
2 subdivision (e).

3 (g) In any provision in which “accident and health agent” is
4 referenced in this part, the term shall include any person licensed
5 under this section and the provisions that apply to those persons
6 shall apply to any person licensed under this part. The fees charged
7 to a life agent under Article 14 (commencing with Section 1750)
8 shall apply to an agent under this section. Any fines or penalties
9 collected from an agent subject to this section for a violation of
10 this part shall be subject to appropriation by the Legislature.

11 (h) This section shall not affect the application or enforcement
12 by the Director of the Department of Managed Health Care of
13 Section 1359 of the Health and Safety Code or any other provision
14 of the Health and Safety Code that relates to solicitors and is not
15 intended to supersede any other requirement or regulation that
16 applies to solicitors or solicitor firms.

17 SEC. 6. Nothing in this act shall apply to qualifications for
18 navigators pursuant to paragraph (1) of subdivision (l) of Section
19 100502 of the Government Code.

20 SEC. 4. Section 1749.87 is added to the Insurance Code, to
21 read:

22 1749.87. (a) The curriculum board shall, in 2012, make
23 recommendations to the commissioner to instruct accident and
24 health agents about the requirements imposed by the federal
25 Patient Protection and Affordable Care Act (Public Law 111-148).
26 This instruction shall include instruction on all public coverage
27 programs and the California Health Benefit Exchange established
28 in Title 22 (commencing with Section 100500) of the Government
29 Code.

30 (b) The curriculum board shall make recommendations to revise
31 both prelicensing education and continuing education.

32 (c) Each provider of courses based upon this curriculum shall
33 submit its course content to the commissioner for approval.

34 SEC. 7.

35 SEC. 5. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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